

**STATE OF ILLINOIS – DEPARTMENT OF LABOR  
CONCILIATION/MEDIATION DIVISION  
1 W. OLD STATE CAPITOL PLAZA, 3<sup>RD</sup> FLOOR  
SPRINGFIELD, ILLINOIS 62701**

**IN THE MATTER OF:**

**STANLEY SIMRAYH, as a MEMBER OF THE  
INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL #150, AFL-CIO and the  
INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL #150, AFL-CIO,**

**Petitioner(s),**

**v.**

**JOSEPH COSTIGAN, DIRECTOR OF  
LABOR and the ILLINOIS DEPARTMENT OF  
LABOR,**

**Respondent.**

**STATE FILE NO. 15-H-JN08-0852**

**DATE OF NOTICE: August 8, 2014**

**CERT. MAIL/RETURN RECEIPT:**

7013 3020 0001 9795 9172

**NOTICE OF HEARING**

PLEASE TAKE NOTICE that pursuant to section(s) 4 and 9 and of the Illinois Prevailing Wage Act [hereinafter, "PWA" or "Act"], 820 ILCS 130/0.01-12, Joseph Costigan, Director of Labor and the Illinois Department of Labor [hereinafter, "Respondent"] has received written objections filed by, Stanley Simrayh as member of the International Union of Operating Engineers, Local #150, AFL-CIO and the International Union of Operating Engineers, Local #150, AF-CIO ["Petitioners"] and will convene a hearing in accordance with Article 10 of the Illinois Administrative Procedure Act, 5 ILCS 100/10-5-10-70 and the procedures stated in Respondent's rules at 56 Illinois Administrative Code 120.100 – 120.670.

**DATE: SEPTEMBER 11, 2014  
TIME: 1:00 P.M.  
PLACE: ILLINOIS DEPARTMENT OF LABOR  
160 NORTH LASALLE STREET, SUITE C-1300  
CHICAGO, ILLINOIS 60601**

**ADMINISTRATIVE LAW JUDGE:**

**CLAUDIA D. MANLEY  
CHIEF ADMINISTRATIVE LAW JUDGE  
ILLINOIS DEPARTMENT OF LABOR  
160 NORTH LASALLE STREET, SUITE C-1300  
CHICAGO, ILLINOIS 60601**

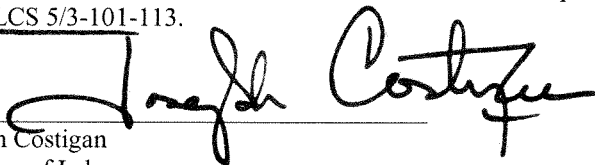
The hearing involves the written objections and hearing request (Exhibits A) filed by Petitioner(s) involving and effecting Respondent's determination of the classification(s) and/or reclassification(s) of craft(s), or type of laborer(s), worker(s) or mechanic(s), engaging in work on public works projects in the in the following counties: Jo Daviess, Stephenson, Henry (West), Mercer, Livingston, Whiteside, Rock Island, Bureau, Putnam and LaSalle located within the State of Illinois and the prevailing rate of wages for the classification(s). Petitioner requests establishment of classifications as a Material Tester/Inspector I and Material Tester/Inspector II for these counties, Exhibit A.

The parties and their respective representatives must be prepared to proceed at the hearing. The parties must present all information, documents, records or witnesses necessary to substantiate their position(s) at the hearing.

Pursuant to 56 Illinois Administrative Code 120.640, the Administrative Law Judge shall render a decision and issue an order on the objections pursuant to 820 ILCS 130/4 and 9, 56 Illinois Administrative Code 120.100 – 120.670. The decision will be the decision for and of the Director of Labor. A certified copy of the final administrative decision shall be filed with the Secretary of State, and a copy served personal service or certified/registered mail on all parties to the proceeding.

The proceedings under this hearing are subject to judicial review in accordance with the provisions of the Administrative Review Law, 735 ILCS 5/3-101 - 3-113. The Director of Labor's determination on the objections is final and binding unless a party to this proceeding applies for and obtains judicial review of the final administrative decision in accordance with the provisions of the Administrative Review Law, 735 ILCS 5/3-101-113.

\_\_\_\_\_  
Joseph Costigan  
Director of Labor

A handwritten signature in black ink, appearing to read "Joseph Costigan", written over a horizontal line.



"keeping it fair, for contractors and workers"

July 30, 2014

JUL 31 2014

Illinois Department of Labor  
CHICAGO OFFICE

Mr. Joseph Costigan  
Director of the Department of Labor  
Illinois Department of Labor  
900 S. Spring Street  
Springfield, IL 62704

Re: Request for a Section 9 hearing to establish Prevailing Wage rates for  
Material Tester/Inspector I and Material Tester/Inspector II

Dear Mr. Costigan:

I represent Stanley Simrayh a member of the International Union of Operating Engineers, Local 150, AFL-CIO ("Local 150"). The purpose of this request is to submit written objections and request a hearing pursuant to Sections 4 and 9 of the Illinois Prevailing Wage Act (820 ILCS 130/4, 9) concerning the prevailing wage rate Material Tester/Inspector I and Material Tester/Inspector II in the following Illinois counties: Jo Daviess, Stephenson, Henry (West), Mercer, Livingston, Whiteside, Rock Island, Bureau, Putnam, and LaSalle.

In July 2013, Local 150 submitted a request for a hearing to establish prevailing wage rates for Material Tester/Inspector I and Material Tester/Inspector II. In November 2013, Local 150, Intervenor and the Illinois Department of Labor (IDOL) entered into a consent decree adding Material Tester/Inspector I and Material Tester/Inspector II to the above referenced counties and establishing prevailing wage rates. The consent decree provided that subsequent prevailing wage determinations would be made by IDOL.

It is the understanding of Local 150 that the prevailing wage rates for Material Tester/Inspector I and Material Tester/Inspector II are subject to a settlement agreement between IDOL and plaintiffs in Associated General Contractors of Illinois, Diamond Construction Company, and Contractors Midwest, Inc. v. IDOL (No. 13 CH 26840), filed in the Circuit Court of Cook County ("survey worker litigation"). In this litigation, plaintiffs requested the Court to stay enforcement of the survey worker and survey foreman classifications. The Court granted plaintiffs' motion and the prevailing wage rates for the classification of survey worker published by IDOL state "not in effect."<sup>1</sup>

<sup>1</sup> IUOE Local 150 filed a separate request for a hearing concerning prevailing wage rates for survey worker/survey foreman on July 30, 2014.

## EXHIBIT A

Plaintiffs in the survey worker litigation previously sought to intervene in Local 150's request for a hearing concerning the Material Tester/Inspector I and Material Tester/Inspector II classifications in 2013. This request was denied as untimely.

It is the understanding of Local 150 that the prevailing wage rates published by IDOL for Material Tester/Inspector I and II in the counties mentioned above will not be enforced by IDOL as a result of a settlement agreement resulting from the survey worker litigation. Local 150 members perform work as Material Testers/Inspectors I and II and are therefore affected by the absence of such classifications.

The Illinois Prevailing Wage Act covers construction work performed by laborers, workers and mechanics on public works projects (820 ILCS 130/2, 3). Material Testers/Inspectors I and II are directly employed by contractors or subcontractors on a public works job site and/or in anticipation of construction, and engaged in the transportation of materials and equipment to or from the site (820 ILCS 130/3). The classification of Material Tester/Inspector I includes hand coring and drilling for testing of materials, as well as field inspection of uncured concrete and asphalt on public works projects. And the classification for Material Tester/Inspector II includes field inspection of welds, structural steel, fireproofing, masonry, soil, façade, reinforcing steel, formwork, cured concrete, and concrete and asphalt batch plants as well as adjusting proportions of bituminous mixtures on public works projects.

Based on the above, on behalf of Mr. Simrayh, Local 150 and the Local 150 membership, in accordance with Section 4 and 9 of the IPWA (820 ILCS 130/4; 820 ILCS 130/9), I am requesting an investigatory hearing to establish Prevailing Wage rates Material Tester/Inspector I and Material Tester/Inspector II.

Thank you for your attention to this matter. Please contact me if there are any questions.

Very truly yours,



Melissa L. Binetti

cc: Stanley Simrayh, IUOE Local 150  
Ronald M. Willis, IDOL General Counsel

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served a copy of the foregoing:

Notice of Hearing

prior to 4:30 p.m. on August 8, 2014, to the following addresses shown below

via certified U.S. Mail, and placed on the Illinois Department of Labor's official

website at <http://www.illinois.gov/idol/Laws-Rules/legal/Pages/Hearings.aspx>:


Marc R. Poulos  
Indiana Illinois and Iowa  
Foundation for Fair Contracting  
6170 Joliet Rd., Ste. 200  
Countryside, IL 60525

Via messenger:

Valerie A. Puccini  
Assistant General Counsel  
Illinois Department of Labor  
160 N. LaSalle St., Ste. C-1300  
Chicago, IL 60601



Subscribed and Sworn to this 8 day of August, 2014

  
Notary Public

